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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2008-0119]

Implementation of Revised Lacey Act Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food, Conservation, and Energy Act of 2008 amended the Lacey Act to provide, among other things, that importers submit a declaration at the time of importation for certain plants and plant products. Enforcement of the declaration requirement began on April 1, 2009, and products requiring a declaration are being phased-in. The purpose of this notice is to clarify that the declaration is required for all formal consumption entries of plant and plant products into the United States, including those entries from foreign trade zones and bonded warehouses.

FOR FURTHER INFORMATION CONTACT: Ms. Parul Patel, Senior Agriculturalist, Permitting and Compliance Coordination, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737-1231; (301) 851-2351.

SUPPLEMENTARY INFORMATION

Background

The Lacey Act (16 U.S.C. 3371 et seq.), first enacted in 1900 and significantly amended in 1981, is the United States' oldest wildlife protection statute. The Act combats trafficking in

illegally taken wildlife, fish, and plants. The Food, Conservation, and Energy Act of 2008 amended the Lacey Act by expanding its protection to a broader range of plants and plant products (Section 8204, Prevention of Illegal Logging Practices). As amended, the Lacey Act makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken in violation of the laws of a U.S. State or any foreign law that protects plants. The Lacey Act also makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant.

In addition, Section 3 of the Lacey Act, as amended (16 U.S.C. 3372), makes it unlawful to import certain plants and plant products without an import declaration. The declaration must contain, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from where the plant was harvested. For paper and paperboard products containing recycled content, the declaration also must include the average percent of recycled content without regard for species or country of harvest. Currently, enforcement of the declaration requirement is being phased in, as described in three notices we published in the Federal Register,¹ the first on February 3, 2009 (74 FR 5911, Docket No. APHIS-2008-0119), the second on September 2, 2009 (74 FR 45415, Docket No. APHIS-2008-0119), and the third on February 6, 2015 (80 FR 6681, Docket No. APHIS-2008-0019).

In our February 2009 notice, we stated that we would be enforcing the declaration requirement only as to formal consumption entries (i.e., most commercial shipments). We also stated that we did not intend to enforce the declaration requirement for informal entries (i.e., most personal shipments), personal importations, mail (unless subject to formal entry),

¹ To view these notices and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0119>.

transportation and exportation entries, in-transit movements, carnet importations (i.e., merchandise or equipment that will be re-exported within a year), and U.S. Foreign Trade Zones (FTZ) and bonded warehouse entries.

The Animal and Plant Health Inspection Service (APHIS) has become aware of certain instances where a Plant and Plant Product Declaration has not been filed for plant or plant products entered into the United States from FTZ and bonded warehouses. This practice is not in conformity with the purpose and intent of the Lacey Act, as amended. We are publishing this notice to make clear that such a declaration is required for all formal consumption entries of plant and plant products imported into the United States, including those entries from FTZ and bonded warehouses. However, such declarations are not required for admission into such FTZ or bonded warehouses, which is what we were referring to in the February 2009 notice when we stated that we did not intend to enforce the declaration requirement for FTZ and warehouse entries.

APHIS will continue to provide the latest information regarding the Lacey Act on our Web site, http://www.aphis.usda.gov/plant_health/lacey_act/. The Web site currently contains the Lacey Act, as amended; a slideshow covering background and context, requirements, commodities and products covered, information on prohibitions, and the current status of implementation of the declaration requirement of the Lacey Act; frequently asked questions; the phase-in implementation plan; a link to the Lacey Act Web Governance System (LAWGS); and the paper declaration form. The Web site will be updated as new materials become available.

We encourage persons interested in receiving timely updates on APHIS' Lacey Act efforts to register for our stakeholder registry at <https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new/> and select “Lacey Act Declaration” as a topic of interest.

Done in Washington, DC, this 10th day of June 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.
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